

**RESOLUTION NO. 2022R-08**

**A RESOLUTION AMENDING THE NORTH DAVIS FIRE DISTRICT POLICY MANUAL CONCERNING DRUG AND ALCOHOL TESTING AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, The Administration of the North Davis Fire District has reviewed the District's Drug and Alcohol Testing Policy and is recommending changes to policies and procedures.

**WHEREAS**, The Board of Trustees of the North Davis Fire District has reviewed the Administration's recommended changes and desires to amend Chapter 800; Section 812 of the North Davis Fire Department Policy Manual as delineated in Exhibit "A" which is attached hereto; and

**WHEREAS**, the Board of Trustees finds that it is in the best interest of the North Davis Fire District to amend Chapter 800; Personal Conduct of the North Davis Fire District Policy Manual as provided for in Exhibit "A".

**NOW, THEREFORE**, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE NORTH DAVIS FIRE DISTRICT, that the North Davis Fire District Policy Chapter 800; Section 812 of the North Davis Fire Department Policy Manual be amended as provided for in Exhibit "A" which is attached hereto and incorporated herein, and that this Resolution shall become effective immediately upon passage and adoption.

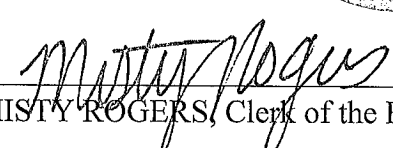
PASSED AND ADOPTED by the Board of Trustees of the North Davis Fire District this 18th day of August 2022.



NORTH DAVIS FIRE DISTRICT  
Board of Trustees

By:   
NIKE PETERSON, Chair

ATTEST:

  
MISTY ROGERS, Clerk of the Board

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**NORTH DAVIS FIRE DISTRICT  
NON-DOT DRUG AND ALCOHOL TESTING POLICY**

**Policy**

The purpose of this policy is to convey to all current and prospective employees of the North Davis Fire District a “zero-tolerance” policy on alcohol and drug use in the workplace and to provide guidelines for the implementation and management of a drug and alcohol testing program for the district. This policy is intended to provide a safer and more efficient workforce by avoiding the negative circumstances created by employee drug and alcohol use. These policies and procedures are not intended to create or alter any existing employment status or contract, written or verbal, between the North Davis Fire District and its employees or job applicants. The provisions of this policy are intended and shall be interpreted to be in accordance with the Utah Local Governmental Entity Drug-Free Workplace Act, as set forth in *Utah Code Ann.* §§ 34-41-101, *et seq.*, as amended.

**General Policy**

Alcohol or drug use can impair an employee's ability to perform the functions of the job, increase accidents, absenteeism, and sub-standard performance, create poor employee morale, and/or undermine public confidence in the district's workforce safely and effectively. It is the policy of the district to employ a workforce and create a workplace free from the adverse effects of alcohol and drug use. To accomplish this, North Davis Fire District has developed a “zero-tolerance” substance abuse policy for all current and prospective employees as more particularly set forth in this policy. This policy shall be distributed to employees and made available for review by prospective employees.

**Applicability**

This Non-DOT Drug and Alcohol Testing Policy shall apply to all district employees and prospective employees, including those District employees or prospective employees who are required to comply with the DOT Drug and Alcohol Testing Policy as set forth in State Statute, to the extent not otherwise covered therein. In the event of a conflict between the two policies, the DOT Drug and Alcohol Policy shall control DOT employees as defined State Statute.

**Definitions**

As used herein, the following words shall have the meanings set forth below:

- (a) Actual Knowledge. “Actual Knowledge” means actual knowledge by an employer that an employee has used a controlled substance and/or alcohol based on the employer's direct observation of the employee or an employee's admission of alcohol and/or controlled substance use. Direct observation as used in this definition means observation of alcohol or controlled substance use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing.
- (b) Adulterated Test Result. “Adulterated Test Result” means a specimen that contains a substance that is not expected to be present in human urine or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.
- (c) Alcohol. “Alcohol” means the intoxicating agent in beverage alcohol (ethyl alcohol) or other low molecular weight alcohols including methyl and isopropyl alcohol.

- (d) Alcohol Use. "Alcohol Use" means the drinking or swallowing of any beverage, liquid mixture, or preparation (including any medication) containing alcohol.
- (e) Alcohol Testing. "Alcohol Testing" means to be tested by a certified breath-alcohol technician, using an approved breath alcohol test device or an approved initial screening device, as more particularly set forth in this policy. Blood and urine alcohol testing may also be used at the discretion of the district when breath alcohol testing is not available.
- (f) Controlled Substance or Drugs. "Controlled Substance" or "Drugs" means any substance, and its metabolite, recognized as a drug in the United States Pharmacopoeia, the National Formulary, the Homeopathic Pharmacopoeia, or other recognized drug compendia, or supplement to such compendia, including Title 58, Chapter 37 of the Utah Code Annotated (Utah Controlled Substances Act), and any prescribed medication or controlled substance including those assigned by 21 USC 802 and includes all substances listed on Schedule I through Schedule V, as they may be revised from time to time (21 CFR 1308), including but not limited to:
  - (1) Marijuana
  - (2) Cocaine
  - (3) Amphetamines
  - (4) Benzodiazepines
  - (5) Barbiturates
  - (6) Opiates and other narcotics
  - (7) Phencyclidine (PCP) and other hallucinogens
- (g) Drug Testing. "Drug Testing" means the scientific analysis of the presence of drugs or their metabolites in specimens from the human body, as more particularly set forth in this policy.
- (h) Employee. "Employee" means any person employed by the Fire District for compensation.
- (i) Medical Review Officer (MRO). "Medical Review Officer" or "MRO" means a licensed physician with knowledge of drug abuse disorders used by North Davis Fire District to determine and verify if a legitimate or medical explanation exists for a positive, adulterated, substituted, or invalid drug test result.
- (j) Non-Negative Drug Test Result. "Non-Negative Drug Test Result" means any drug test result other than a negative test result, including, but not limited to adulterated, substituted, diluted, or invalid drug test results.
- (k) On-Duty. "On-Duty" means all working hours, including meals or break periods, regardless of whether the employee is on Fire District property, and at any time the employee represents North Davis Fire District in any capacity, including operating District equipment or vehicles.
- (l) Positive Alcohol Test. "Positive Alcohol Test" means test levels on both the initial and confirmation tests that are 0.04 percent or greater (0.04 gm/210 liters of breath or 0.04 gm/deciliter of blood or 0.04 gm/dl of urine).

- (m) Positive Drug Test. "Positive Drug Test" means drug test levels on both the screening test and the confirmation test that are at or above the level recognized as positive by the US Department of Health and Human Services in its Mandatory Guidelines for Federal Workplace Drug Testing Programs or the standard cutoff levels set by the laboratory and the MRO has verified the test result as positive.
- (n) Prospective Employee. "Prospective Employee" means any person who has made a written or oral application for employment with the district and who has been selected as a final applicant for such employment.
- (o) Refusal to Submit. "Refusal to Submit" means that the employee: (1) fails to provide adequate breath for alcohol testing as required herein without a valid medical explanation after he or she has received notice of the requirement for breath testing; (2) fails to provide an adequate urine sample for controlled substances testing as required herein without a genuine inability to provide a specimen after he or she has received notice of the requirement for urine testing; or (3) engages in conduct that clearly obstructs the testing process.
- (p) Safety Sensitive Position. "Safety Sensitive Position" means any position involving duties that directly affect the safety of government employees or the public, or positions where there is access to controlled substances as defined in Utah Code Annotated, Title 58, Chapter 37 (Utah Controlled Substances Act) during the course of performing job duties.
- (q) Sample. "Sample" means any sample of urine, blood, breath, oral fluid, or hair for drug and/or alcohol screening.
- (r) Substituted Test Result. "Substituted Test Result" means a specimen with creatinine and specific gravity values that are so diminished or divergent that they are not consistent with human urine.
- (s) Use. "Use" means to illegally consume, sell, purchase, manufacture, distribute, be under the influence of, report to work under the influence of, or be in possession of drugs and/or alcohol. The term use shall also include the presence of drugs and/or alcohol in the body of an employee, including the presence as a metabolite, the use of a prescription drug without a valid prescription from a health care provider and not using a prescription drug as prescribed by the authorizing health care provider.
- (t) Utah Local Governmental Entity Drug-Free Workplace Act. "Utah Local Governmental Entity Drug-Free Workplace Act" means the Drug-Free Workplace Act set forth at *Utah Code Ann.* §§ 34-41-101, *et seq.*, as amended.

A. **Regulations**

No employee of the North Davis Fire District may possess, sell or be under the influence of any drugs or alcohol while on duty, when conducting district business, or while on district premises, as shown by the presence of such substances or their metabolites in the employee's system. The following activities are examples of activities that are strictly prohibited for all Fire District employees:

- (a) Working while under the influence of a controlled substance or alcohol unless the substance is legally prescribed and used in accordance with the terms of this policy.
- (b) Selling, using, purchasing, manufacturing, or possessing an illegal controlled substance or drug paraphernalia while on North Davis Fire District time, while conducting North Davis Fire District business, while on North Davis Fire District property, or while using District vehicles or equipment.
- (c) Selling, using, purchasing, manufacturing, or possessing an illegal controlled substance or drug paraphernalia when not at work.
- (d) Selling, using, purchasing, manufacturing, or possessing an illegal controlled substance, including prescription medications which are considered controlled substances, unless the prescription medication is legally prescribed to the employee and has been taken as prescribed.
- (e) Operating any vehicle or machinery while under the influence of any drug, including prescription or over-the-counter medications which render the employee incapable of safely and adequately operating a vehicle, machinery, or performing any other job duties.
- (f) Using alcohol, in any form, while on North Davis Fire District time or business, or to report to work under the influence of alcohol. An employee is considered to be in violation of this policy if they report to work with a blood alcohol level (as determined by a breath alcohol (BAC) test) greater than or equal to 0.04.
- (g) Consuming or using alcohol in any form, four (4) hours prior to a scheduled work period, or while "on-call."
- (h) Refusing to submit a specimen for controlled substances or alcohol testing.
- (i) Having positive drug and/or alcohol test results.
- (j) Tampering with, substituting, or adulterating any specimen collected for drug and/or alcohol testing. Any sample reported by the laboratory or MRO as "substituted" or "adulterated" will be considered a "refusal to test" or a refusal to submit a valid sample.
- (k) Obstructing or not fully cooperating with specimen collection or testing procedures.
- (l) Failing to report the legal use of prescription and/or over-the-counter medications that could adversely render the employee incapable of operating a vehicle, machinery, and performing job duties.
- (m) For a North Davis Fire District supervisor to allow an employee to work if they have actual knowledge that the employee has violated this policy or has reasonable suspicion to believe that an employee may be impaired by drugs and/or alcohol.

**B. Zero-Tolerance**

If it is determined that an employee tests positive for use of controlled substances and/or alcohol, abuses prescribed drugs, refuses to provide a sample, knowingly supplies excess fluids (diluted), substituted or adulterated sample, or otherwise violates the terms and provisions of this policy, that employee shall be subject to disciplinary action, up to and including termination. Any disciplinary action taken for violations of this policy shall comply with the disciplinary action procedures, as applicable, set forth in Chapter 809 of these Policies and Procedures.

**C. Voluntary Rehabilitation**

Employees seeking assistance with overcoming drug or alcohol abuse before they are selected and tested for drug and/or alcohol testing and before it interferes with job performance may contact their supervisor, department head, or the Human Resources Manager for information about counseling and rehabilitation programs. Employees having a drug or alcohol problem are strongly encouraged to seek help. The Human Resources Manager may aid in referring employees to appropriate rehabilitation programs. This assistance, however, does not financially obligate the district for the costs associated with rehabilitation.

Rehabilitation is the employee's responsibility. The district will allow employees who seek voluntary assistance for alcohol and drug problems to first utilize their accrued sick leave and then their accrued annual leave for rehabilitation. Leave without pay may be requested by the employee and will be considered on an individual case basis. If the FMLA does not apply, an employee's position may be held open for a reasonable period up to a maximum of thirty (30) days for voluntary rehabilitation upon approval by the District Fire Chief. Employees returning to work after treatment must first provide the district with a certification from a reputable substance abuse program that the employee is sober, has successfully completed the treatment program and has the potential for a full recovery. A licensed professional medical practitioner that specializes in substance abuse must sign this certification. The employee must also, as a condition of returning to work, agree to follow-up rehabilitation drug and/or alcohol testing and sign a return-to-work agreement.

Follow-up rehabilitation testing will be required for a period of not less than six (6) months and not more than one (1) year after completion of the employee's substance abuse treatment program. The date and time of any required follow-up rehabilitation drug and/or alcohol testing will be unannounced and conducted on a random basis. Voluntary notification and enrollment in a rehabilitation program shall only prevent disciplinary action for previous drug or alcohol use that was unknown to the district and shall not prevent the District from testing or taking disciplinary action against an employee who subsequently violates this policy.

**D. Prescription and Over-the-Counter Drugs**

Prescribed and over-the-counter drugs and the necessary instrumentalities of administration brought on District premises may only be used by the person for whom they are prescribed and taken as directed so long as the use of such drugs does not adversely affect the safety of the work environment or significantly impede the performance of essential job functions. There are various prescription and over-the-counter drugs that may adversely affect the safety of the work environment.

Examples include, but are not limited to, pain relievers that contain opiates, medical marijuana, and muscle relaxants. It is the employee's responsibility to be informed about the effects of



prescription and over-the-counter drugs they are taking by reading the information that accompanies the drug, including any information provided by the pharmacist, consulting with their physician, and accessing and utilizing other sources of information available to the employee, and acting accordingly.

Any employee who chooses or is medically required to use prescribed or over-the-counter medications that may adversely affect the safety of the work environment shall immediately notify his or her department head of the type of medication and time period over which said medications will be taken. The Fire Chief will make a determination of any restrictions to be placed on the employee after appropriate confidential consultation with the Human Resources Manager, the District's Attorney's Office, and/or medical professionals. A written statement from the employee's physician may be required regarding whether the physician is of the opinion that the employee can safely work or perform his or her job duties while taking the prescribed drug.

Any employee who chooses or is medically required to use a prescribed or over-the-counter medication outside of the workplace must ensure that: (1) they use the medication as prescribed, (2) at least 12 hours have passed since the medication was used, and (3) the impairing effects have ended prior to reporting for work. For purposes of this policy, medications used as prescribed, which do not constitute a safety concern, shall not be considered a violation of this policy.

**E. Testing Required**

In accordance with the provisions of this policy, all prospective and current employees shall be subject to drug and alcohol testing as a condition of hiring and continued employment with the district. Failure to comply with this policy shall result in the district refusing to hire a prospective employee or disciplinary action against current employees as set forth in Section 812 (B) regarding the district's zero-tolerance policy. All drug testing shall consist of a CRL nine (9) panel plus a narcotics drug screen to set for the presence of controlled substances. All testing shall be based on and under the circumstances set forth in Section 812 (F) regarding the basis for testing.

**F. Basis for Testing**

Prospective and current employees shall be subject to testing for the presence of drugs and/or their metabolites and alcohol by the district in accordance with the provisions of this policy as a condition of hiring and continued employment for any of the following reasons under the following circumstances.

- (a) **Pre-Employment.** All prospective employees, upon acceptance of a conditional offer of employment with the district, shall be required to submit to a pre-employment drug test at the facility designated by the North Davis Fire District. Pre-employment tests will be conducted on prospective employees on their own time, meaning that prospective employees will not be paid for the time they spend participating in pre-employment testing required by NDFD. All pre-employment drug testing will be conducted at the third-party administrator's facility and prospective employees are responsible for their transportation to and from the collection facility. Refusal to consent to a pre-employment drug test will terminate further action towards employment. A positive, adulterated, or substituted test result will also terminate further action towards employment with NDFD. Only those prospective employees whose pre-employment drug test results are negative will be considered for further action towards employment.

- (b) Reasonable Suspicion. Employees acting in a manner that raises reasonable suspicion that the employee has improperly used or reported to work under the influence of drugs or alcohol shall be subject to drug and alcohol testing which may include standardized field sobriety testing and drug recognition expert (DRE) examination. "Reasonable suspicion" shall be determined by the supervising agent and shall mean an articulated belief based upon recorded facts and reasonable inferences drawn from those facts that the employee is in violation of this policy. Reasonable suspicion drug and/or alcohol testing will be required when there is any of the following: observable phenomena (actual use, possession, odors, etc.); abnormal behavior or physical characteristics; or a drug-related investigation, arrest, or conviction or any investigation of theft.
- (1) In the event that reasonable suspicion testing is warranted, it is the responsibility of an agent of the North Davis Fire District to transport the employee being tested to and from the testing facility. In most cases, either the Designated Employee Representative (DER) or the employee's supervisor will be responsible for transporting the employee.
  - (2) Before requiring reasonable suspicion testing, the employee's supervisor or the person requesting the reasonable suspicion testing shall complete the "Observed Behavior-Reasonable Cause Record". It is essential that this form be completed before the employee is required to submit to testing to properly document the circumstances leading up to the testing referral.
  - (3) Any employee who is required to submit to reasonable suspicion testing will be removed from any safety-sensitive functions and placed on alternative duty, if necessary, or placed on paid administrative leave until the results of the drug and/or alcohol test can be verified. If the test result(s) are negative, the employee will be able to return to work upon receipt of the test result(s). If the test results are positive, the employee will be subject to termination as provided herein.
  - (4) If an employee refuses to submit to reasonable suspicion testing or attempts to leave any North Davis Fire District premises and is impaired, in the opinion of a trained supervisor, to the extent that he/she would present a danger to either him/herself or others, local law enforcement should be contacted immediately by the supervisor.
  - (5) In an effort to ensure that supervisors are knowledgeable about the symptoms of drug and/or alcohol use, training on symptom recognition will be held for all district employees in supervisory positions and only those persons who have attended the training will be qualified to require reasonable suspicion testing. Records regarding training attendance will be kept for a minimum of three (3) years after the date of the training.
- (c) Random Testing. Employees in safety-sensitive or executive positions shall be subject to unannounced random controlled substance, drug, and alcohol testing. Safety-sensitive position means any local governmental position involving duties that directly affects the safety of governmental employees, the general public, or positions where there is access to controlled substances during the course of performing job duties. The percentage

of employees tested shall be determined by the Fire Chief. Safety-sensitive positions and executive staff positions will be pooled for test selection. Test selection will be made in a random manner on a monthly basis by the District's Designated Facility for Random Testing. All individuals will be required to go to a collection site for drug and alcohol testing. No advance warning will be given to employees regarding the date and time of the random test.

(d) Post-Accidents.

- 1) Employees involved in any work-related accident involving the following are required to submit to post-accident drug and alcohol testing:
  - a) A vehicle in motion operated by a district employee.
  - b) Any accident or incident of such a nature that there is a reasonable possibility that impairment due to drug or alcohol use could be a contributing factor, for the following incidents:
    - 1) Injury to any person requiring medical treatment by a healthcare provider;  
or
    - 2) Property damage, other than to district vehicles.
- 2) Off-duty employees involved in motor vehicle accidents involving NDFD vehicles will also be subject to post-accident drug and alcohol testing as directed above.
- 3) Procedure.
  - (a) Post-accident drug and alcohol tests must be conducted within immediately following; but no longer than eight (8) hours after the accident and/or incident. If these time limits have passed, the district should cease attempts to collect the sample.
  - (b) In the event that post-accident drug and alcohol testing is warranted, it is the employee's supervisor's responsibility or an agent of the North Davis Fire District or emergency personnel to transport the employee being tested to and from the testing facility. In most cases, it is the employee's supervisor's responsibility to ensure the employee is transported. The testing facility to use during business hours (8 AM-5 PM) is the Layton WorkMed. If the accident occurred after business hours, the supervisor shall use Davis Hospital for drug and alcohol testing to be done. If necessary, and at the Chief's discretion, the North Davis Fire District retains the right to select and use a certified testing facility not listed within this policy.
  - (c) Any employee who is required to submit to post-accident drug and alcohol testing will be removed from any safety-sensitive functions and placed on alternative duty, as necessary, or placed on paid administrative leave until the results of the drug and alcohol tests can be verified. If the test results are negative, the employee will be able to return to work upon receipt of the test results. If the test results are positive or non-negative, the employee will be subject to termination as provided herein.

- (e) Pre-Announced Periodic. Employees may be subject to pre-selected and pre-announced drug and alcohol testing as a condition of continued employment conducted on a regular schedule.
- (f) Rehabilitation. Employees in any rehabilitation program shall be subject to drug and alcohol testing in accordance with the program requirements or as part of a return-to-work requirement after treatment or program participation. Rehabilitation testing means unannounced but pre-selected drug or alcohol testing is done as part of a program of counseling, education, and treatment of an employee in conjunction with this policy.
- (g) Compliance. Employees shall be subject to drug and alcohol testing when required by State or Federal law. See, DOT Drug and Alcohol Testing Policy regarding additional drug and alcohol testing requirements for employees subject to commercial driver's license requirements under the Omnibus Transportation Employees Testing Act and the Department of Transportation regulations enacted thereunder.

**G. Testing Procedures.**

A licensed medical facility will conduct drug and alcohol screening.

- (a) Samples. Prospective employees and current employees shall submit a split urine sample for drug testing or retesting as required herein. The urine sample shall be divided into two specimen bottles by the third-party entity in accordance with the Utah Governmental Entity Drug-Free Workplace Act. Alcohol testing will typically be done with an evidentiary breath testing device.
- (b) Inadequate Samples. In the case of urine-based drug testing, a prospective employee who fails to provide an adequate quantity of urine for testing according to the third party's guidelines will no longer be considered for employment. If an employee fails to provide an adequate quantity of urine according to the third party's guidelines the third-party administrator will notify the MRO to determine pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test. Upon completion of the examination, the MRO will report their conclusions to the North Davis Fire District Human Resource Director in writing. If the District or the collector has reasonable cause to believe that the donor of the sample has tampered with their sample, a new sample will be immediately collected.
- (c) Testing. Sample drug testing shall conform to scientifically accepted analytical methods and procedures and shall be conducted in accordance with the Utah Local Governmental Entity Drug-Free Workplace Act by an independent laboratory certified for employment drug testing by either the Substance Abuse and Mental Health Services Administration or the College of American Pathology. The district has designated Intermountain WorkMed as the district's third-party administrator to assist in setting up and administering the drug and alcohol testing program set forth herein.
- (d) Dilute Specimens. Specimens that the laboratory reports as dilute, meaning specific gravity less than 1.003 and creatinine levels less than 20 mg/dL, may be considered invalid and the

employee/applicant will be required to give a second specimen. The second specimen will be considered the result.

- (e) Invalid Specimens. If NDFD receives a test result that is determined to be invalid, the employee will be immediately retested. The employee will be given no notification of the need to retest. No action will be taken regarding the first test result and the results of the second test will be considered final. A second "invalid" test result will be treated as a positive test result.
- (f) Time. Any drug or alcohol testing required by the NDFD under this policy shall occur during or immediately after the regular work period for current employees and shall be deemed work time for purposes of compensation and benefits for current employees.
- (g) Costs. Except as otherwise provided, the NDFD shall pay all costs of sample collection and testing required herein, including the cost of transporting current employees to the testing site if the testing is conducted at a place other than the work site.
- (h) Disclaimer. A physician/patient relationship is not created between a prospective or current employee and the district or any person performing the test, solely by this policy and the procedures set forth herein.
- (a) Positive. Positive test results shall refer to those test results that meet or exceed the standard permissible levels of the substance in the body as defined and set forth in this policy, the Federal DOT Rules and Regulations if addressed therein, or by standards adopted by the State of Utah if not addressed by the Federal DOT Rules and Regulations.
- (b) MRO. It is the policy of NDFD that all positive or non-negative drug test results be immediately referred to an MRO to verify the positive or non-negative result. In the case of a positive, adulterated, substituted, or invalid test result, the employee or prospective employee shall be so advised by the MRO by telephone on a confidential basis prior to the reporting of the results to the designated employer representative. The employee shall have the right to discuss and explain the results, including the right to advise the MRO of any prescription or over-the-counter medication or other substance consumed which may have affected the results of the test. The MRO shall also review the chain-of-custody documentation to ensure compliance with normal chain-of-custody procedures. If the MRO can verify a legitimate explanation, the MRO would then reverse the test result to negative and report it as negative to the employer. The MRO can report a positive or non-negative test to the employer, without interviewing the employee/applicant, if: an individual has expressly declined the opportunity to discuss the test result with the MRO; the employer has successfully made and documented contact with the employee and instructed the employee to contact the MRO and more than 72 hours have passed since the time the employer contacted the employee; or if neither the employer nor MRO, after making and documenting all reasonable efforts, has been able to contact the employee within ten (10) days of the date on which the MRO receives the confirmed test result from the laboratory. No MRO review will be done on positive breath or blood alcohol tests.

- (c) Notice. In addition to the MRO procedures set forth in Subsection (b), prospective and current employees shall be notified as soon as possible of any positive test results conducted in accordance with this policy by telephone or in writing at their last-known telephone number and address and told of his or her option to have the split urine sample tested as provided in Subsection (e).
- (d) Confirmation. Before the result of any test required herein may be used as a basis for action by the district, the positive test result shall be verified or confirmed using a gas chromatography-mass spectroscopy, other comparably reliable analytical method.
- (e) Second Test Option. If the test results of the urine sample indicate the presence of drugs or their metabolites, the donor of the test shall have seventy-two (72) hours from the time he or she is notified of such results to request, at his or her option, to have the split urine sample testing performed. The cost of the second test shall be equally divided between the donor and the district, unless the second sample tests negative, in which case the district shall pay for the entire cost of the second test. In addition to the initial test results, the test results of the split urine sample shall be considered at any subsequent disciplinary hearing if the requirements of this policy have been complied with in the collection, handling, and testing of the samples.
- (f) Request for Report. An employee who has tested positive or non-negative shall have the right to request, in writing, from the district a copy of the laboratory and MRO report regarding the testing.

#### H. **Action**

- (a) Referral. Any non-DOT employee who has a non-negative drug test or a positive breath alcohol test result will be immediately referred by the district DER to the Employee Assistance Program (EAP), a licensed substance abuse counselor (LSAC), or a Substance Abuse Professional (SAP) for an initial consultation. The North Davis Fire District will be responsible for the cost of the initial consultation. However, additional services provided to the employee by the SAP and/or LSAC will be at the expense of the employee.
- (b) Discipline or Refusal to Hire. The district may use confirmed positive test results or non-negative test results, or any refusal of a prospective or current employee to take the test, as a basis for disciplinary action up to and including termination of current employees and refusal to hire prospective employees. Any disciplinary action taken by the NDFD for violation of this policy shall be in accordance with the NDFD disciplinary procedures. Such procedures shall include any required pre-disciplinary hearing and appeal proceedings.
- (c) Rehabilitation. The district may also require that any employee rendering positive test results enroll in an NDFD-approved rehabilitation, treatment, or counseling program, which may include additional drug or alcohol testing, at the expense of the employee and as a condition of continued employment.

#### I. **Confidentiality and Access to Test Results**

The use and disposition of all drug and alcohol testing results and records shall be considered confidential and are subject to the limitations of the Utah Government Records Access and Management Act and the Americans with Disabilities Act. To ensure that all drug and/or alcohol

test results remain confidential, the third-party administrator and/or MRO for the NDFD drug testing program are only authorized to release test results to the North Davis Fire District DER. After being received by NDFDS, all drug and alcohol test results will be stored in confidential employee files (established for all NDFD employees) and will remain confidential to the extent required or allowed by law. The DER will determine which person(s) within the district need to know which test results. Test and other records will be maintained in a secure manner so that disclosure of confidential and/or medical information to unauthorized persons does not occur. Test results may be released in legal proceedings where the employee raises the issue of a drug test (i.e., unemployment hearing, wrongful termination, etc.). Test results can be released to persons representing North Davis Fire District (i.e., attorneys, workers compensation insurance adjusters, etc.). Employees, former employees, and prospective employees can request copies of their drug and/or alcohol test results by making a written request to the North Davis Fire District Human Resource Director.

**J. Notification of Conviction**

Any investigation by law enforcement or conviction for controlled substance or alcohol activity may be cause for dismissal from employment. Failure of an employee to report any conviction for illegal drug use or alcohol misuse to their supervisor and/or the North Davis Fire District Human Resource Director within five (5) days of conviction may result in disciplinary action up to and including termination.

**K. Americans with Disabilities Act (ADA)**

Alcoholism is considered a disability under the ADA. North Davis Fire District will make reasonable accommodations for current employees who suffer from alcoholism, including encouraging an employee to participate in rehabilitation programs. However, North Davis Fire District will hold an alcoholic employee to the same performance standards as other employees and will discipline an employee, up to and including termination, if the employee's alcohol use adversely affects the employee's job performance or is a safety hazard. An employee or prospective employee whose controlled substance or alcohol (except as modified by the ADA) tests are confirmed and verified positive in accordance with the provisions of this program shall not, by reason of those results alone, be defined as a person with a "handicap" or "disability" for the purposes of Utah Code Annotated Chapter 35, Title 34 (Utah Anti-Discriminatory Act) or the Federal Americans with Disabilities Act.

**L. Amendments.**

The North Davis Fire District reserves the right to interpret, modify, and/or revise this policy in whole or in part. Nothing in this policy is to be construed as an employment contract nor does this alter an employee's employment status. This policy will be amended from time to time to comply with changes in Federal and State laws.

**North Davis Fire District  
Observed Behavior – Reasonable Cause Record**

According to NDFD Personnel Policy, employees may be required to submit to Reasonable Cause drug and/or alcohol testing if their supervisor or other managerial employees has a reasonable suspicion that that employee is under the influence while at work. This checklist is to be kept confidential and should be placed in the employee's drug and alcohol testing file. Prior to requiring an employee to submit to Reasonable Cause drug and/or alcohol testing, Chapter 812 of the NDFD Personnel Policy should be reviewed, the Fire Chief or a member of administration should be notified, and this form should be completed.

**Employee Information**

Name: \_\_\_\_\_ Employee Number: \_\_\_\_\_

Current Job Title: \_\_\_\_\_

Current Supervisor: \_\_\_\_\_

**Observation Information**

Observation Date: \_\_\_\_\_ Observation Time: \_\_\_\_\_ AM PM

Cause of Suspicion (check all that apply):

Presence or possession of drugs, alcohol, and/or drug or alcohol paraphernalia at (please specify):

\_\_\_\_\_  
\_\_\_\_\_

**Physical Signs:** Appearance (check all that apply):

- |                                                                   |                                                        |
|-------------------------------------------------------------------|--------------------------------------------------------|
| <input type="checkbox"/> Normal                                   | <input type="checkbox"/> Slurred Speech                |
| <input type="checkbox"/> Bloodshot eyes                           | <input type="checkbox"/> Dilated or constricted pupils |
| <input type="checkbox"/> Unsteady walking/uncoordinated movements | <input type="checkbox"/> Flushed                       |
| <input type="checkbox"/> Fidgeting/inability to sit still         | <input type="checkbox"/> Shakes or tremors             |
| <input type="checkbox"/> Deterioration of appearance/grooming     |                                                        |
| <input type="checkbox"/> Other: _____                             |                                                        |

**Behavioral Signs** (check all that apply):

- |                                                                                                          |                                               |
|----------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| <input type="checkbox"/> Normal                                                                          | <input type="checkbox"/> Confused/disoriented |
| <input type="checkbox"/> Out-of-control displays of emotion                                              | <input type="checkbox"/> Lethargic            |
| <input type="checkbox"/> Incoherent                                                                      | <input type="checkbox"/> Slowed               |
| <input type="checkbox"/> Lack of coordination                                                            | <input type="checkbox"/> Slurred speech       |
| <input type="checkbox"/> Paranoid                                                                        | <input type="checkbox"/> Euphoria             |
| <input type="checkbox"/> Attendance Problems – tardiness, a pattern of absences of excessive absenteeism |                                               |
| <input type="checkbox"/> Other: _____                                                                    |                                               |

**Balance and Motor Skills** (check all that apply):

- |                                                                |                                                  |
|----------------------------------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> Normal                                | <input type="checkbox"/> Swaying                 |
| <input type="checkbox"/> Unsteady walk/uncoordinated movements | <input type="checkbox"/> Falling                 |
| <input type="checkbox"/> Staggering/stumbling                  | <input type="checkbox"/> Arms raised for balance |
| <input type="checkbox"/> Reaching for support                  |                                                  |
| <input type="checkbox"/> Other: _____                          |                                                  |

Other observed actions or behavior (please specify): \_\_\_\_\_



**Witnessed By:**

Name (Printed): \_\_\_\_\_

Job Title: \_\_\_\_\_

Observation: \_\_\_\_\_

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Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Job Title: \_\_\_\_\_

Observation: \_\_\_\_\_

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Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Employee's Response:**

(Document below the employee's explanation or reasons for his/her conduct)

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Action Plan: \_\_\_\_\_

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Place a **checkmark** next to the applicable action as agreed upon with the employee:

- Employee has agreed to testing
- Employee has **not** agreed to testing
- Employee referred to EAP
- No further action at this time

\_\_\_\_\_  
Supervisor Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Deputy Fire Chief Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Fire Chief Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Human Resource Signature

\_\_\_\_\_  
Date

**DRUG AND ALCOHOL TESTING  
CONSENT FORM**

Date \_\_\_\_\_

Employee \_\_\_\_\_

Name of Supervisor Requesting Exam \_\_\_\_\_

Name of Supervisor Accompanying Employee \_\_\_\_\_

**Medical Consent**

I consent to pre-employment, random, accident, and reasonable suspicion drug and alcohol testing, I consent to the collection of breath/urine samples by an authorized breath alcohol technician and/or laboratory staff to determine the presence of alcohol and/or drugs, if any.

**Authorization to Release Information**

I authorize said laboratory to release any and all medical information obtained during this testing procedure to North Davis Fire District.

I understand that my alteration of this consent form; refusal to consent or cooperate fully with the collection of breath/urine samples; knowingly supplying an excess fluid (diluted), substituted, or adulterated sample; or my refusal to authorize release of information constitutes insubordination, violates the drug and alcohol testing policy, and may be grounds for discipline up to and including termination.

I also understand that a confirmed positive result on these tests may be grounds for termination.

Employee Signature \_\_\_\_\_ Date \_\_\_\_\_

Supervisor Signature \_\_\_\_\_ Date \_\_\_\_\_

## EMPLOYEE NOTICE AND ACKNOWLEDGEMENT OF NORTH DAVIS FIRE DISTRICT EMPLOYER TESTING REQUIREMENTS

### **Policy**

The purpose of this policy is to convey to all current and prospective employees of the North Davis Fire District a “zero-tolerance” policy on alcohol and drug use in the workplace and to provide guidelines for the implementation and management of a drug and alcohol testing program for the district. This policy is intended to provide a safer and more efficient workforce by avoiding the negative circumstances created by employee drug and alcohol use. These policies and procedures are not intended to create or alter any existing employment status or contract, written or verbal, between the North Davis Fire District and its employees or job applicants. The provisions of this policy are intended and shall be interpreted to be in accordance with the Utah Local Governmental Entity Drug-Free Workplace Act, as set forth in *Utah Code Ann.* §§ 34-41-101, *et seq.*, as amended.

### **General Policy**

Alcohol or drug use can impair an employee's ability to perform the functions of the job, increase accidents, absenteeism, and sub-standard performance, create poor employee morale, and/or undermine public confidence in the district's workforce safely and effectively. It is the policy of the district to employ a workforce and create a workplace free from the adverse effects of alcohol and drug use. To accomplish this, North Davis Fire District has developed a “zero-tolerance” substance abuse policy for all current and prospective employees as more particularly set forth in this policy. This policy shall be distributed to employees and made available for review by prospective employees.

### **Applicability**

This Non-DOT Drug and Alcohol Testing Policy shall apply to all district employees and prospective employees, including those District employees or prospective employees who are required to comply with the DOT Drug and Alcohol Testing Policy as set forth in State Statute, to the extent not otherwise covered therein. In the event of a conflict between the two policies, the DOT Drug and Alcohol Policy shall control DOT employees as defined State Statute.

### **PART 1: NOTICE**

This is to inform you that the North Davis Fire District conducts testing to identify job applicants and current employees when there is reasonable suspicion that employee may be abusing drugs and/or alcohol. The District will test all employees involved in an accident and will conduct random tests for employees involved in safety-sensitive functions.

- (1) A copy of the North Davis Fire Districts policy on this matter is either attached to this notice or will be given to you upon request.
- (2) You have the right to refuse to undergo testing. However, the consequences of refusal to undergo testing or a refusal to cooperate in testing by an applicant may result in the termination of the pre-employment selection process, and the consequences of refusal to undergo testing or a refusal to cooperate in the testing by an employee will result in disciplinary action up to and including discharge.
- (3) An applicant who fails a test will not be hired, and an employee who fails a test will be subject to disciplinary action up to and including discharge.
- (4) Remaining drug and/or alcohol-free and participation in the North Davis Fire District drug and/or alcohol testing program is a condition of continued employment.

**PART II: ACKNOWLEDGEMENT**

I acknowledge receipt and understanding of the above-written notice and agree to abide by the terms of the North Davis Fire District policy pertaining to drugs and alcohol. I acknowledge that North Davis Fire District, Non-Dot Drug and Alcohol Testing Policy is found within the North Davis Fire District Personnel Policy. I acknowledge that the North Davis Fire District Personnel Policy Manual is available for review in the administrative offices and the district's shared drive. I also acknowledge that if I have questions with regards to the North Davis Fire District, Non-Dot Drug and Alcohol Testing Policy the Fire Chief, Deputy Fire Chief, and Human Resource Coordinator should be contacted.

\_\_\_\_\_  
*Employee Name (print)*

\_\_\_\_\_  
*Employee Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Human Resource Name (print)*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Human Resource Signature*

\_\_\_\_\_  
*Date*